

§ 202.104 Rule 4: Agency action.

(a) *Informal disposition.* If there appears to be any reasonable ground for doing so, the Agency Head shall investigate the matter complained of. If the Agency Head reasonably believes that there are not sufficient facts to form the basis for further proceeding, the matter may be dropped, without prejudice to subsequent court action on the same cause of action; if it is dropped, the person filing the complaint shall be informed. If the statements in the complaint, and information obtained in the investigation, seem to warrant such action, the Agency Head may make an effort to obtain the consent of the parties to an amicable or informal adjustment of the matter by communication with the parties or their attorneys or representatives. Such communication may be written or oral or both.

(b) *Service of complaint.* If the matter is not disposed of as provided in paragraph (a), the complaint, together with any amendment which has been filed, shall be served on the respondent with a notice that an answer is required.

(c) *Service of report of investigation.* A report prepared by the Agency, of its investigation of the matter complained of, and supplements to such a report, may be served on the parties and made a part of the record of the proceeding. Whether such a report or supplement shall be prepared, and whether it shall be served on the parties and made a part of the record, and its contents, shall be in the discretion of the Agency Head. The Judicial Officer shall consider information in such a report or supplement as part of the evidence in the proceeding, to the extent that such information is relevant and material to the proceeding. Any party may submit evidence in rebuttal of such information as is provided generally in these rules for the submission of evidence. Oral testimony, to the extent credible, shall be given greater weight as evidence than such information.

§ 202.105 Rule 5: Filing; time for filing; service.

(a) *Filing; number of copies.* Prior to docketing of a proceeding under these rules, all documents and papers other than the initial complaint, filed in the proceeding, shall be filed with the

Agency. After such docketing of a proceeding, all such documents and papers shall be filed with the hearing clerk, *Provided*, That all such documents and papers, except a petition for disqualification of a presiding officer, shall be filed with the presiding officer if the parties have been served with written notice to do so. Each such document or paper shall be filed in quadruplicate with an extra copy for each party in excess of two, except as otherwise provided in these rules. Any document or paper not filed in the required number of copies, except an initial complaint, may be returned to the party filing it.

(b) *Effective date of filing.* Any document or paper other than an initial complaint, filed in a proceeding under these rules, shall be deemed to be filed at the time when it reaches the headquarters of the Department in Washington DC, or, if authorized to be filed with an officer or employee of the Department at any place outside the District of Columbia, it shall be deemed to be filed at the time when it reaches the office of such officer or employee.

(c) *Additional time for filing.* The time for the filing of any document or paper other than an initial complaint, in a proceeding under these rules, may upon request be extended as reasonable, by the agency head prior to docketing of the proceeding, or by the presiding officer, or by the judicial officer; notice of any extension of time shall be served on all parties. After docketing of the proceeding, in all instances in which time permits, notice of a request for extension of time shall be given to parties other than the one filing such request, with opportunity to submit views concerning the request.

(d) *Computation of time.* Saturdays, Sundays, and Federal holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided*, That, when such time expires on a Saturday, Sunday, or Federal holiday, such time shall be extended to include the next following business day.

(e) *Who shall make service.* Copies of all documents or papers required or authorized by the rules in this part to be filed with the Agency shall be served on the parties by the Agency, and copies of all documents or papers required